



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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May 18, 2015

Mr. Tom J. Terry
3804 W. Allen Ct.
Muncie, IN 47304

Re: Formal Complaint 15-FC-129; Alleged Violation of the Open Door Law by the Randolph County Assessor and the Randolph County PTABOA

Dear Mr. Terry,

This advisory opinion is in response to your formal complaint(s) alleging the Randolph County Assessor ("Assessor") and the Randolph County Property Tax Board of Appeals ("PTABOA") violated the Open Door Law ("ODL"), Ind. Code § 5-14-1.5-1 *et. seq.* The PTABOA has responded to your complaint(s) via counsel, Mr. Meeks Cockerill, Esq. His response is enclosed. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint(s) received by the Office of the Public Access Counselor on April 13, 2015.

BACKGROUND

Your complaint dated April 11, 2015 alleges the Randolph County Assessor and Property Tax Board of Appeals violated the Open Door Law by failing to provide you notice to a hearing pursuant to Ind. Code § 6-1.1-15-1.

On or about March 30, 2015, the Randolph County PTABOA met to determine an appeal which directly affected your property interests. You allege you were not given personalized notice of this meeting.

Counsel for the PTABOA responds that this is not an Open Door Law (ODL) issue and that you may appeal the PTABOA decision.



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ANALYSIS

Pursuant to Ind. Code § 5-14-1.5-5(a):

Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least forty-eight (48) hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. This requirement does not apply to reconvened meetings (not including executive sessions) where announcement of the date, time, and place of the reconvened meeting is made at the original meeting and recorded in the memoranda and minutes thereof, and there is no change in the agenda.

You suggest in your complaint the meeting was a “continuation” of a February 12, 2015 meeting, however, you do not identify whether it was “reconvened” in the manner contemplated by the above statute. If it was, no further notice is needed. If not, the PTABOA would need to publish a new 48-hour notice. This appears to be the case as the Assessor posted notice in the local newspaper (see supplement to the PTABOA’s response).

In addition to this notice requirement is the provision in Ind. Code § 6-1.1-15-1, which implies individual notice must be given to the affected property owner. Counsel is correct this meeting is not an ODL violation. The meeting was a function of the PTABOA and while it is considered a public meeting subject to the ODL, the additional personalized notice requirement is not an ODL consideration. The deficiency of notice is insular to the PTABOA process and would be subject to its administrative procedures. The alleged deficiency is under the jurisdiction of the Indiana Board of Tax Review and not the Office of the Public Access Counselor. Simply put, this Office lacks jurisdiction to review the merits of your complaint.

CONCLUSION

For the foregoing reasons, it is the Opinion of the Public Access Counselor the Randolph County Assessor and PTABOA has not violated the Open Door Law.

Regards,



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A handwritten signature in black ink, appearing to read "LH Britt", is positioned above the printed name.

Luke H. Britt
Public Access Counselor

Cc: Mr. Meeks Cockerill, Esq.